

Chapter 2: ADMINISTRATION OF THE CARL MOYER PROGRAM

PART I. BACKGROUND AND DEFINITIONS

(Section 1) Background

The chapter outlines ARB's responsibility for overall program administration and oversight, and describes the minimum administrative requirements ARB and air districts must follow to ensure the program achieves SIP-creditable emission reductions. Air districts may choose to require more stringent administrative procedures in implementing their local program.

Appendix H describes Carl Moyer Program "Best Practices", which go beyond this chapter's minimum program requirements and describe actions districts can take to run more effective and efficient programs. Best Practices for Carl Moyer Program administration are referenced in this chapter in superscript.

For Year 10, districts may choose to use either the 2005 Guidelines or the 2008 Guidelines and the relevant Program Advisories. However, districts must use the same Guidelines for all of one fiscal year's funding. For Year 11 and subsequent years, districts must use the 2008 Guidelines and subsequent Program Advisories.

(Section 2) Definitions

Carl Moyer Program Funds. Carl Moyer Program funds include state Carl Moyer Program funds awarded by ARB (as provided by statute, and including), interest earned on these state funds, and local funds used as program match funding (see HSC §44287).

Clean Air Reporting Log (CARL). The Carl Moyer Program on-line project evaluation and tracking system administered by ARB.

Commitment of Funds. Funds are considered committed to a project when a specific Carl Moyer Program project eligible for those funds has been approved by the district Board or by a district Air Pollution Control Officer (APCO) or other delegated authority. See Section 15 of this chapter for details.

Contract. A legally binding and enforceable agreement between an air district and a project applicant to fund, implement, and complete a Carl Moyer Program project by a specific date.

Earned Interest. Interest generated from State Carl Moyer Program funds provided to air districts and held in interest bearing accounts.

Expend. The payment of Carl Moyer Program funds on a project invoice for an eligible Carl Moyer Program project, for the purposes of meeting the requirements of HSC §44287(k).

Fully Executed Contract. A Carl Moyer Program contract signed by the district Air Pollution Control Officer (APCO) or other designated representative and the project vehicle, engine, or equipment owner or legal representative to make the contract legally binding.

Good Standing. A district is considered “in good standing” if it has completed the most recent required Annual and Final Reports by the reporting deadlines and whose reports demonstrate compliance with the requirements of State law and these program Guidelines. A district must also meet all other applicable requirements of State law and these guidelines, and fully address any ARB audit findings in a timely manner. See Section 23 of this chapter for details.

Probation. A status potentially imposed upon an air district by ARB for egregious or widespread non-conformance with Carl Moyer Program requirements. See Section 24 of this chapter for details.

Rural District Assistance Program. An element of the Carl Moyer Program in which districts pool their project funds to streamline project outreach and solicitation.

State Carl Moyer Program Funds. State Carl Moyer Program funds include state Carl Moyer Program funds appropriated to and awarded to districts by ARB (as provided by statute) and interest earned on these state funds.

PART II: ARB-AIR DISTRICT INTERACTIONS

Part II-A: District Solicitation and Receipt of Program Funds

(Section 3) Background

ARB determines the tentative awards for each year in accordance with the formula identified in HSC section 44299.2(a). The timeline for each funding cycle is provided in Table II-1. The process and minimum requirements for distribution of these funds from ARB to air districts is described in this chapter.

Table II-1: Timeline for Each Year of Funds

Date	Action
Mid-September	ARB sends application packet to air district.
Mid-November	Districts apply to ARB for funds
Early January	ARB notifies districts of final awards
January - June	Districts receive grant awards
April 30	Deadline for districts to accept or decline funds
June 30 of Following Year	Target date for contracts to be executed
June 30 of Second Year	Funds must be expended

(Section 4) ARB Solicitation of District Applications

- (a) Each September, ARB shall send a solicitation letter to each district's APCO to notify the district that Carl Moyer Program funding is available and provide the application districts need to apply for program funds. The solicitation letter shall provide each district's tentative funding awards, tentative match funding requirement, and match fund waiver request form.
- (b) If a district has not expended State Carl Moyer Program funds within two years, the solicitation letter from ARB to the air district shall indicate the district's expenditure shortfall.

(Section 5) District Applications for Program Funding

- (a) Districts must submit a completed application packet within 60 days from the date of the solicitation. The completed application packet must include the following documents:
- (1) Completed Application: The application must be completed and the original signed by the district's APCO. All information requested on the application must be provided or the application will be considered incomplete. Districts requesting the minimum \$200,000 allocation may opt to direct their allocation to the Rural District Assistance Program.
 - (2) Match Fund Commitment: Districts must specify the source and amount of local match funding on the application. Districts requesting more than their tentative funding allocation must demonstrate that match funds are available for any additional funds. Districts requesting the minimum allocation may request a match waiver. ARB staff will verify that the listed amount and source of funds are available for the district to use under the Carl Moyer Program. Districts may meet up to 15 percent of their match requirement with in-kind contributions. Additional information regarding allowable sources of match funding can be found in Sections 10 and 11 of this chapter. See Best Practice #1

- (3) District Board Resolution: The application must include a resolution of the district Governing Board that commits the district to comply with the Carl Moyer Program requirements and authorizes the district to participate in the Carl Moyer Program and accept funds from ARB, or to have such funds placed into the Rural District Assistance Program. For districts with a match requirement, the board resolution shall authorize the APCO to supply sufficient funding to meet the match requirement. Districts may include a board resolution which authorizes the district to implement the Carl Moyer Program for multiple years. In such instances, the district may document the resolution as still being in effect each year by including a copy of the resolution with the signed application. ^{See Best Practice #2}
- (4) Policies and Procedures Manual: Districts must submit their Carl Moyer Program Policies and Procedures Manual to ARB to be eligible for funding. The manual must describe the district's policies, procedures, and organizational structure for the Carl Moyer Program. The submitted manual shall apply to the funding cycle for which the district is applying. Districts may request additional time to complete their Policies and Procedures Manual as part of their application; however, a complete Policies and Procedures Manual must be submitted to and approved by ARB before a district is eligible to receive its initial funding disbursement. The Policies and Procedures Manual must include, at a minimum, the district's policies and procedures for following program components:
- (A) Program structure and organization, including coordination with ARB
 - (B) Solicitation of funds from ARB
 - (C) Project solicitation, evaluation, and selection (including schedule for program implementation)
 - (D) Environmental justice/at-risk communities (if applicable)
 - (E) State and match fund obligation and expenditure
 - (F) Fiscal practices and procedures
 - (G) Light duty vehicle/fleet modernization projects (if applicable)
 - (H) Pre- and post-inspections
 - (I) Project reports
 - (J) Contract components and contracting with applicants
 - (K) Invoice review, approval, and payment protocols
 - (L) District audits of projects
 - (M) Details regarding program components identified in the following sections of this chapter: 14(c), 18(a), 28(l), 31(b), 31(f), 32(a), 32(c), 34(c), and 36(c).
- (5) Status Report: Districts that are not in good standing must provide a Status Report demonstrating all funds received two years prior are expended, consistent with Sections 18 and 19 of this chapter, and that all

funds received one year prior are committed via fully executed contracts. These fund expenditure and contract execution requirements may be met cumulatively, consistent with Section 20 of this chapter. Districts in good standing are not required to submit a Status Report.

(b) Any district whose latest required Final Report does not demonstrate full expenditure of program funds within two years, as tracked cumulatively and consistent with HSC §44287(k) and §44299.2(c) and Sections 18 through 20 of this chapter, must do one of the following:

- (1) Return the expenditure shortfall within 60 days of the June 30th expenditure deadline, as required by HSC §44287(k).
- (2) Have the amount of the expenditure shortfall deducted from its pending funding allocation for that fiscal year. Unexpended funds that were the basis for this deducted amount shall continue to be considered behind schedule with regard to the two year expenditure deadline, and continue to be tracked based upon the original year they were received from the State. Funds deducted from a district's allocation shall be redistributed to other eligible air districts as per Section 6(e) of this chapter.

(c) Districts that do not fully expend their funds within two years and are required to take the actions identified in Section 5(b) (above) shall, at a minimum, be deemed not in good standing.

(d) ARB reserves the right to direct up to ten percent of each year's State Carl Moyer Program funds to projects that operate or impact air quality in multiple air districts (pursuant to HSC § 44286). ARB typically solicits and selects multidistrict projects each Spring, consistent with Section 28(n) of this chapter.

(Section 6) ARB Review and Approval of District Funding Applications

(a) If the district application for Carl Moyer Program funding is incomplete, ARB shall provide the district with a written explanation of what is missing from the application within ten working days of its receipt.

(b) Complete applications, which fulfill all criteria, shall be approved no later than 60 days after receipt.

(c) On a case-by-case basis, ARB may elect to approve an application that is missing a particular item and make the submittal of that item a stipulation of the Grant Agreement. For example, sometimes district staff is unable to obtain a board resolution before the application deadline. In such a case, ARB may allow a board resolution to be submitted with the signed Grant Agreement or prior to the district's initial disbursement.

(d) ARB shall review a district's Policies and Procedures Manual for minimum elements listed in Section 5(4) of this chapter and within 30 days of its receipt either approve the manual or describe what additional information or clarification is needed. ARB approval of district Policies and Procedures Manual shall be provided by e-mail or in other written format. Districts shall keep ARB approval of each year's Policies and Procedures Manual as part of their program files. ARB approval of a district's Policies and Procedures Manual denotes approval of the district's policies and procedures as written. A district's policies and procedures as implemented can only be fully evaluated during the audit process.

(e) Those districts that are in good standing, have applied for additional funds during the application period, and have demonstrated the availability of sufficient match funding will be considered for additional funding. ARB shall follow the formula identified in HSC §44299.2(a) to redistribute funds declined by air districts and funds reallocated due to district non-expenditure pursuant to Section 5(b)(2) of this chapter.

(Section 7) Final Grant Awards

(a) Once district applications have been approved, ARB shall determine the final grant awards and match funding requirement information.

(b) ARB shall prepare and submit two signed original copies of the Grant Award and Authorization Forms to qualifying districts.

(c) The APCO must sign both original copies of the Grant Award and Authorization Form. The districts retain one fully executed copy of the agreement for their files and return one original copy of the fully executed agreement to ARB.

(d) The deadline for acceptance of a grant award shall be April 30 of each year.

(e) From June 30 following the full execution of the agreement, the districts shall have one year to fully execute contracts for the grant award with project applicants and two years to expend the grant award.

(Section 8) Fund Disbursements to Air Districts

(a) In order to receive a disbursement, each district must submit a Grant Disbursement Request to ARB. The Grant Disbursement Request form must be signed by a party authorized and designated by the district Governing Board.

(b) If there are stipulations on the Grant Award and Authorization form, all stipulations must be met prior to submitting the initial disbursement request.

(c) Protocol and minimum requirements for air districts to receive disbursements are as follows:

- (1) Initial Disbursement: A district may request an initial disbursement of up to ten percent of their allocation or \$100,000, whichever is greater. In order to receive an initial disbursement, a district must demonstrate expenditure of all funds received two years prior, contract execution for all funds received one year prior, and commitment of 90 percent of funds received in the current calendar year to specific projects. Tracking of progress may be done cumulatively, consistent with Sections 18 through 20 of this chapter.

Districts in good standing may request an initial allocation of more than ten percent up to an amount for which funds have been committed to specific, eligible projects. Districts in good standing may also receive an initial disbursement of ten percent of their allocation without demonstrating expenditure, contract execution, or commitment of prior year funds.

- (2) Subsequent Disbursements: Subsequent disbursements can be for up to an amount for which funds have been committed to specific, eligible projects. To receive a subsequent disbursement, districts must have committed their initial disbursement to specific, eligible projects.
- (3) Rural Districts: An air district in good standing which has requested the minimum program allocation of \$200,000 for that funding cycle and which has fully expended its funding allocation from two years prior consistent with Sections 18 through 20 of this chapter (i.e. the district did not donate any part of its allocation from two years prior to the Pooled Rural District Program or to another district, or return the funds to ARB) may receive its full \$200,000 disbursement from ARB without meeting the requirements of Section 8(c)(1) and (2), above.

(d) Commitment of funds to a project may be demonstrated by the mechanisms described in Section 15 of this chapter, or by a letter from the APCO certifying fund obligation. On a case-by-case basis, ARB may accept other documentation of the commitment to fund specific projects.

(e) Districts will receive one check for both program administration and project funds, and shall account for the administration and project funds separately.

(f) For air districts with one million or more inhabitants, up to five percent of each disbursement from ARB shall be for program outreach and administration and no less than 95 percent shall be for projects. For districts with under one million inhabitants, up to ten percent of each disbursement shall be for program outreach and administration, and no less than 90 percent shall be for projects.

Part II-B: AB 923 -- \$2 Motor Vehicle Fee

(Section 9) *This section tbd pending discussions with CAPCOA*

Part II-C: Match Funding

(Section 10) Match Fund Formula

(a) Districts participating in the Carl Moyer Program are required to provide \$1 in match funding for every \$2 of state Carl Moyer Program funding awarded by ARB, with a cap on statewide match funds of \$12 million. The formula provided below shall be used by ARB to determine each district's required matching funds:

$$\frac{\text{Each district's annual allocation} * \$12,000,000}{\text{Total allocation to all districts}}$$

(b) A district receiving the minimum grant award of \$200,000 may request a waiver of the match fund requirement if the district can demonstrate appropriate staff commitment for program implementation and administration or if the district elects to donate its funding allocation to the Rural District Assistance Program.

(Section 11) Match Funds Sources

(a) District match funds, with the exception of port funds as allowed by Section 11(e), below, must be under the district's fiduciary control. Funds allocated to an air district by the State of California, such as Lower Emission School Bus Program Funds or State bond funds, may not be used as Carl Moyer Program match funding. Districts may meet their matching fund requirement on an overall program basis, rather than a project-by-project basis (HSC §44287(e)).

(b) Motor vehicle registration surcharge fees, including the AB 2766 - \$4 Motor Vehicle Registration Fee (\$4 MV Fee), and the AB 923 - \$2 Motor Vehicle Fee (\$2 MV Fee), have more restrictive requirements than other locally generated funds regarding what types of projects within the Carl Moyer Program they may be used for.

(1) Motor Vehicle Fees: In order to qualify as match funds, the \$4 MV Fee and \$2 MV Fee must fund motor vehicle projects that meet the Carl Moyer Program criteria. Eligibility of motor vehicle fees to be used as Carl Moyer Program match funds are as follows:

(A) Motor vehicle fees may be used as Carl Moyer program match funds only if they fund motor vehicle projects (HSC §44287(j)). Table II-2 identifies what source categories are considered motor

vehicles for the purposes of match funding. Statute allows the \$2 DMV fee to be used to fund any eligible Carl Moyer Program project – both motor vehicle and non-motor vehicle projects (HSC §44229(b)(1)). However, only motor vehicle projects funded via the \$2 MV fee may be counted as match projects.

- (B) Motor vehicle fees that pay for incremental fuel costs consistent with Sections 12(a)(2) and (3) of this chapter may be used as match funds. Fuel must be dedicated a source category potentially eligible for Carl Moyer Program project (such as heavy-duty trucks).
- (C) Motor vehicle fees that pay for accelerated light-duty vehicle retirement and repair programs that meet all Carl Moyer program criteria may be used as match funds.
- (D) Motor vehicle fees used to fund Lower Emission School Bus Program projects may count towards the district match requirement if they meet the Carl Moyer Program requirements and the cost-effectiveness threshold of \$16,000 per weighted ton of pollutants reduced. All air district or state incentive funds used to help pay for a school bus project must be included in this cost-effectiveness calculation.
- (E) AB 923 motor vehicle fees used to fund Agricultural Assistance Program projects may not be counted towards the Carl Moyer program match requirement (HSC §44287(i)).

**Table II-2:
Eligibility of Motor Vehicle Registration Surcharge Fee
Projects as District Match**

Eligible	Not Eligible
Automobiles	Locomotives
Trucks	Marine vessels
Buses*	Stationary agricultural engines
Self-propelled harvesters	Aircraft
Road graders	Refrigeration units
Earth movers	Auxiliary generators
Tractors	Welding machines
Forklifts	Pleasure craft
Sweepers	Cranes

* Lower Emission School Bus Program projects must meet Carl Moyer Program cost-effectiveness and other criteria to count as match.

- (2) Other Locally-Generated Funds: Locally generated funds which are not motor vehicle fees may be counted as match if they fund projects that meet all AB 2766 or AB 923 Carl Moyer Program requirements and criteria, including those project types described in Sections 12(a)(1), (2), and (3).

- (c) Interest earned on Carl Moyer Program funds received from ARB shall not be used for match funding.
- (d) Funding provided by a port authority for a qualifying project or for infrastructure that serves a qualifying project may count toward the district's Carl Moyer Program matching fund requirement.
- (e) No more than 30 percent of a district's match obligation may come from a port authority. Port authorities may participate through projects involving their own equipment, or by soliciting port tenants to apply for project funding.
- (f) Private companies are not allowed to provide match funding to satisfy the districts' match funding obligation.

(Section 12) Eligible Types of Match Projects

(a) The types of projects that can be funded to meet the match funding requirement include:

- (1) Carl Moyer Program Projects: Motor vehicle fees used as match funds may be used to pay for any motor vehicle project which meets all Carl Moyer Program criteria and requirements as specified in Section 11(b) of this chapter. Non-motor vehicle fees used as match funds may pay for both motor vehicle and non-motor vehicle projects that meet all Carl Moyer Program criteria.
- (2) Incremental Fuel Cost: Match funds may be used to pay for the incremental cost of liquid or gaseous fuel and electricity, other than standard gasoline or diesel, which serves a source category potentially eligible for Carl Moyer Program project (such as heavy-duty trucks).
- (3) Infrastructure Projects: Match funds may be used for electric and alternative fuel infrastructure projects that serve specific Carl Moyer Program qualifying project categories.
- (4) In-Kind Contributions: Up to 15 percent of a district's match requirement may be fulfilled through in-kind contributions. Districts may use any funds under their budget authority -- except for outreach funds districts receive from ARB as part of their annual program allocation and interest earned on Carl Moyer Program funds -- to cover their in-kind contribution. When using these other district funds for in-kind match, districts must follow all relevant statute, guidelines, and other legal requirements for expending such funds. In-kind contributions must be made in the same fiscal year as the funds being matched, must be proportional to the time and amount dedicated to Carl Moyer Program activities, and shall not be carried over

to other years. District in-kind match funds must be spent on program administration and outreach as described in Section 14, and meet the documentation requirements identified in Section 14.

(b) Districts found by ARB to have funded ineligible projects shall substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB. Districts found by ARB to have used ineligible funding sources for match funding shall be required to substitute eligible projects equal to the amount found ineligible.

Part II-D: Fiscal Issues

(Section 13) Earned Interest

Interest earned on Carl Moyer Program funds must be reported to ARB. The interest income must be used to fund projects that meet the current Carl Moyer Program Guidelines. See Best Practice #4

(a) Calculation of Earned Interest. All districts must maintain accounting records (e.g. general ledger) that track interest earned on and expenditures of Carl Moyer Program funds.

- (1) If a district maintains its Carl Moyer Program funds in a non-segregated account, the district must maintain accounting records that track the revenue, expenditures, and interest earned by the Carl Moyer Program funds separately from other district programs.
- (2) The calculation of interest must be based on an average daily balance or some other reasonable and demonstrable method of allocating the proceeds from the fund back into the program.
- (3) Earned interest must be tracked such that it is separately identifiable from other program funds.
- (4) Each district's methodology for calculating Carl Moyer Program interest must be consistent with how it calculates earned interest for its other fiscal programs.

(b) Expenditures for Program Administration. A district shall follow the following minimum requirements in expending earned interest on program administration:

- (1) A district that segregates its Carl Moyer Program funds into project and program administration accounts must use all interest earned in the project account to fund eligible Carl Moyer Program projects, and may use interest earned in the program administration account for either Carl Moyer Program administration or Carl Moyer Program projects.

- (2) A district that earns interest collectively on both project and administration funding can use up to five percent of earned interest on administrative expenses if the district has one million or more inhabitants, and up to ten percent of earned interest on administrative expenses if the district has less than one million inhabitants.
- (c) Expenditure of Small Sums. Residual amounts of earned interest may also be combined with Carl Moyer Program and/or earned interest from previous years to fund a single project. When combining funds from different fiscal years, the district must use the Guidelines in effect at the time of the obligation.
- (d) Expenditure and Reporting Timeline. Districts typically track and report on earned interest in one of two ways -- the Fiscal Year Method or the Funding Cycle Method, as illustrated in Table II-3. Using the Fiscal Year Method, Carl Moyer Program Year X earned interest is that interest earned on all Carl Moyer Program funds in the fiscal year that begins in Year X (See Table II-3). For the Funding Cycle Method, Year X earned interest is that interest earned on Year X Carl Moyer Program funds over the approximately two year period the district has to expend the funds. Whatever the method used to accrue and track earned interest, interest on Year X funds must be expended by the expenditure deadline for Year 'X+2' funds (i.e. June 30th four years after Year X funding was awarded by ARB). Year X earned interest shall be reported with Year 'X+2' funds, consistent with the schedule identified in Table II-3. Table II-4 identifies the expenditure deadlines for interest accrued through program Year 12.

**Table II-3: Interest Accrual, Expenditure, and Reporting Timelines
for Two Commonly Used Interest Generation Methods**

	Year X		Year X+1		Year X+2		Year X+3		Year X+4	
Jan										
Feb										
Mar										
Apr										
May										
June									Invoices Paid	
July										
Aug									Final Report	
Sep										
Oct										
Nov										
Dec										

Assumes Year X funds received from ARB on April 1 of first year.



Fiscal Year Method (interest earned on all Carl Moyer Program funds)



Funding Cycle Method (interest earned on Year X Carl Moyer Program funds)

**Table II-4:
Expenditure Deadlines for Earned Interest**

Fiscal Year	Expenditure Deadline
Years 1-7	June 30, 2009
Year 8	June 30, 2010
Year 9	June 30, 2011
Year 10	June 30, 2012
Year 11	June 30, 2013
Year 12	June 30, 2014

Districts must also report on interest expended as of June 30, 2008 with their Year 8 Final Report (due August 31, 2008). There is no earned interest expenditure requirement or deadline for this report.

(e) **Reporting Requirements.** Each district's option shall indicate the amount of interest earned on Annual and Final Reports, consistent with this schedule selected for tracking of funds.

- (1) Districts must report on projects funded with earned interest the same way districts report on Carl Moyer Program-funded projects (i.e. by entering projects in the CARL and in their Annual and Final Reports).
- (2) Documentation of earned interest generation and expenditure must be retained for a minimum of the project life plus two years, contract term

plus two years, or date of final project invoice payment plus three years, whichever is longer.

(Section 14) Program Administration and Outreach Funding

(a) District Funding. Air districts with one million or more inhabitants may use up to five percent of their Carl Moyer Program funds on program outreach and administration, while districts with under one million inhabitants may use up to ten percent of their Carl Moyer program funds.

(b) Allowable Costs. Administrative funds shall only be used for costs associated with the program implementation related tasks outlined in these guidelines and must be documented by the district. Administrative funds shall be used for Carl Moyer Program administration and outreach, including: district staff time; consultant fees; printing, mailing, and travel costs; project monitoring and compliance expenses; and indirect costs, such as general administrative services, office space, and telephone services.

(c) Required Documentation. Districts must maintain documentation of Carl Moyer Program funds used for administration and outreach. Districts must keep the following documentation:

- (1) Personnel documentation must make use of timesheets or other labor tracking software. Duty statements or other documentation must be used to verify actual hours or percent of time staff devoted to Carl Moyer Program administration and outreach.
- (2) Consultant fees must be documented with copies of the consultant contract and invoices.
- (3) Printing, mailing, and travel expenses must be documented with receipts and/or invoices.
- (4) If travel and per diem expenses are used to document program administrative costs, allowable travel costs and per diem rates must be described in the district's Policies and Procedures Manual. District travel cost criteria must be consistent with the district's written travel policies for other district programs. Alternatively, if these definitions are included in local administrative code or other document, the district may cite the document that governs its practices in the Policies and Procedures Manual.
- (5) Indirect cost calculation methodologies, if used to determine indirect costs of program administration, must be fully described or referenced in the district's Policies and Procedures Manual. Districts must maintain

documentation for all costs referenced in the indirect cost calculation formula.

- (d) The above documentation, records, and referenced materials must be made available for review during ARB or other State agency monitoring visits and audits. These records must be retained for a minimum of two years after submittal of the Final Report for that funding cycle to ARB.
- (e) District Carl Moyer Program staff shall meet with the appropriate district fiscal staff at least twice per year to reconcile program funds.
- (f) Districts that charge unallowable costs for program administration or outreach shall be required to substitute eligible administration and outreach funds equal to the dollar amount found ineligible, or return the funds for the unallowable cost to the ARB.

Part II-E: Reporting and Progress Tracking

(Section 15) Commitment of Project Funds

- (a) Funds are considered to be committed to a project when the district officially selects an eligible project for funding through any of the following actions:
 - (1) The district's governing board approves a project for funding through a resolution, minute order, letter or other written instrument, or
 - (2) The APCO or other Board-authorized representative sends the successful applicant a project offer letter, or
 - (3) The district submits project applications it has approved for funding to CARL, or
 - (4) The district provides ARB with spreadsheets describing approved projects, or
 - (5) The contract between the district and the owner is fully executed.
- (b) Previous years' funds associated with funded projects or contracted projects that were withdrawn or terminated prior to expenditure of those funds shall be committed to other projects, along with the current year's funds, and shall be subject to the current year's Carl Moyer Program requirements. However, for tracking purposes and to avoid double counting of projects, the program funding cycle these funds were originally received from ARB must be disclosed in the project Annual and Final Reports.

(Section 16) Contract Execution

- (a) All Carl Moyer Program funds must be committed to a project via executed contract between the district and the project engine, vehicle, or equipment owner or other legal representative.
- (b) Executed contracts must meet all requirements of Section 30 of these Guidelines.

(Section 17) Annual Report

- (a) ARB shall send districts a copy of the appropriate Annual Report template to fill out, or make the report template available on ARB's website. The Annual Report template shall include instructions for the report's completion.
- (b) Districts shall submit an Annual Report on or before August 31st of the year following each funding cycle's allocation from ARB (See Table II-5). This report shall provide information regarding projects associated with funds received one year prior which are under executed contract as of June 30th of that year. At a minimum, districts shall update all of their project information in the CARL, and specify the date of contract execution. See Best Practices #3 and #20
- (c) The Annual Report must include the following information for projects associated with funds received one year prior:
 - (1) Project type, emission reductions, number of engines funded, and funds under executed contract for each Carl Moyer Program project, including match fund projects.
 - (2) Other projects funded with the \$2 MV Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). ***(Still discussing AB 923 funds with CAPCOA)***
 - (3) Projects from previous funding cycles which were reported as "under contract", which are no longer under contract, must be updated as such.
 - (4) Verification of executed contracts, as follows:
 - (A) Districts not in good standing shall submit copies of executed contracts for all Carl Moyer Program projects, including match projects, to ARB. Districts may make and submit one complete copy of their standard contract format and then submit only the pertinent pages (initial page, signature page, and page describing the project, including contract amount) of each contract to ARB.

- (B) Districts in good standing may provide a form signed by the APCO, Chief Fiscal Officer (CFO), and Carl Moyer Program manager certifying the amount of funds under contract in lieu of copies of executed contracts.
- (5) Copies of executed but not previously submitted contracts, as identified in Section 19(c)(1) of this chapter, that commit Carl Moyer Program and local match funds to projects.
- (6) Projects from previous funding cycles that were reported as under contract, but which are no longer under contract, must be updated as such.
- (d) Districts may demonstrate progress in executing contracts cumulatively, by substituting executed contracts for current year State Carl Moyer Program funding (i.e. early contract execution) for funds not yet under contract from a previous year.
- (e) Districts which have not executed contracts associated with all project funds received one year prior shall work with their ARB Carl Moyer Program liaison to ensure the district is on target to expend all required program funds within two years, consistent with Sections 18 through 20 of this chapter. At a minimum, such districts shall provide an e-mail or other written documentation briefly describing:
 - (1) the reason for the delay in executing contracts, and
 - (2) their schedule for executing the remaining contracts, returning funds to ARB, contributing the funds to the Rural District Assistance Program, or other actions as needed to ensure project funds are expended within two years. Districts choosing to return funds to ARB or contribute funds to the Rural District Assistance Program must do so by that year's November application deadline (as identified in Table II-5). Districts that return funds received one year prior or contribute these funds to the Rural District Assistant Program after that year's November application deadline or fail to expend these funds within two years shall be considered not in good standing. Funds received one year prior from ARB that are returned or contributed to the Rural District Assistance Program prior to that year's November application deadline shall not impact a district's good standing status.

**Table II-5:
Key Carl Moyer Program Milestones for Calendar Years 2008 Through 2011**

	2008	2009	2010	2011
Jan	ARB Awards and Disburses Year 10 Funds to Districts	ARB Awards and Disburses Year 11 Funds to Districts	ARB Awards and Disburses Year 12 Funds to Districts	ARB Awards and Disburses Year 13 Funds to Districts
Feb				
Mar				
Apr				
May				
June	Year 8 Expended Year 9 Contracts	Year 9 Expended Year 10 Contracts	Year 10 Expended Year 11 Contracts	Year 11 Expended Year 12 Contracts
July				
Aug	Year 8 Final Report Year 9 Annual Report	Year 9 Final Report Year 10 Annual Report	Year 10 Final Report Year 11 Annual Report	Year 11 Final Report Year 12 Annual Report
Sep	Year 11 Solicitation	Year 12 Solicitation	Year 13 Solicitation	Year 14 Solicitation
Oct				
Nov	Year 11 Apps. Due	Year 12 Apps. Due	Year 13 Apps. Due	Year 14 Apps. Due
Dec				

This table identifies the general milestones for calendar years 2008 through 2011. The exact milestone and deadline dates are included in Sections 2 through 19 of this chapter.

(Section 18) Invoice Payment

- (a) A district shall have two options for paying project invoices:
 - (1) The district must receive an invoice from the owner and complete a satisfactory post-inspection, or
 - (2) The district may make partial payments on project contracts. A district choosing this option must include its policies and procedures for partial payments in its Policies and Procedures Manual.
- (b) By June 30th of each year, districts must have paid invoices for projects associated with all state Carl Moyer Program funds received two years prior. Funds are considered expended when an invoice for that project has been fully or partially paid by the air district, and the invoice payment also meets the conditions identified in Section 18(c), below.
- (c) An invoice payment must cover the incremental cost for a new engine, vehicle, or piece of equipment which is currently operational in order for project funds for the contract to be considered fully expended as required by HSC §44286(k). An electric agricultural irrigation pump is considered operational for the purposes of this definition once it has been delivered to the project participant and has been connected to the electricity grid.
- (d) Districts may demonstrate progress in paying invoices cumulatively, by taking credit for funds paid on projects from a more recent year of state Carl Moyer Program

funding (i.e. early invoice payment) in place of funds not yet expended, consistent with Section 20 of this chapter.

(e) Project invoices must meet all applicable requirements of Section 33 of this chapter.

Section 19) Final Report

(a) ARB shall send districts a copy of the appropriate Final Report template to fill out, or make the report template available on ARB's website. The Final Report template shall include instructions for the report's completion.

(b) Districts shall submit a Final Report to ARB no later than August 31st of the second year following the district's receipt of program funds (see Table II-5). This report shall provide information regarding projects associated with funds received two years prior that have been expended as of June 30th of that year. See Best Practice #3 and #36

(c) The Final Report shall include the following information for funds received two years prior:

- (1) Project type, emission reductions, and number of engines funded for each Carl Moyer Program project, including match fund projects and projects funded with earned interest. Districts tracking progress cumulatively must include this information for funds expended early as needed to demonstrate overall expenditure of program funds within two years.
- (2) Other projects funded with the \$2 MV Registration Surcharge Fee (Light Duty Vehicle, Lower Emission School Bus, and Agricultural Assistance Programs). **(still discussing reporting and auditing of AB 923 funds w/ CAPCOA)**
- (3) Amount of interest accrued on State Carl Moyer Program funds.
- (4) Copies of invoices that document the amount of Carl Moyer Program funds and local district match expended for each project. Districts in good standing may provide a form signed by the APCO, CFO, and district Carl Moyer Program manager certifying the funds have met the expenditure requirements of the Carl Moyer Program in lieu of project invoices.
- (5) A brief narrative specifying: results of environmental justice/high risk communities efforts, if any; results of outreach efforts to zero-emission and small business projects; monitoring and auditing efforts and results; enforcement actions; and recaptured funds.

- (6) A document signed by the district Chief Administrative Officer, CFO, and Carl Moyer Program Grant Administrator that project and financial data submitted is complete, accurate, and the district's responsibility, and that there are no known instances of fraud.
- (d) In the event previous years' funds that were expended are returned to a district, those returned funds are to be committed to new projects along with the current year's funds, and in accordance with the current year's requirements. The district shall include the projects funded with the returned funds in the current year's Annual and Final Reports. For the purposes of progress tracking, these funds will continue to be considered expended.
- (e) Receipt of an Annual or Final Report by ARB does not imply ARB approval of project eligibility. Air district staff is responsible for project approval and funding eligibility determinations.
- (f) Districts that are found to have funded ineligible projects shall be required to substitute eligible projects equal to the amount found ineligible or return the ineligible amount to the ARB.

(Section 20) Cumulative Progress Tracking

- (a) In meeting deadlines to commit funds, execute contracts, or expend funds, ARB shall track district progress cumulatively. Cumulative progress tracking allows for comparison of the total funds spent by the expenditure deadline, regardless of the funding year, with the amount required to be expended at that deadline in order to ensure anticipated emission reductions are achieved. For example, a district that must demonstrate expenditure of Year 8 funds by the two-year statutory deadline, may utilize Year 9 funds expended early in place of Year 8 funds not yet expended. In this case, if the district had received \$5 million in total funding in Years 1 through 8, it would have to demonstrate \$5 million in cumulative fund expenditure by the two year statutory deadline.
- (b) Cumulative progress tracking shall not include funds received from ARB for specific multi-district projects selected via ARB's multidistrict solicitation (pursuant to HSC § 44286).

(Section 21) Funding Year Close-Out

- (a) ARB shall designate as "closed out" each new funding year once a district has submitted all required reports and demonstrated that every dollar of Carl Moyer Program funds for that funding year, including match funding and earned interest, has been properly invoiced and fully paid to projects.

(b) For the purposes of cumulative progress tracking, funds from a project are considered “fully expended” when an invoice for that project has been paid (even if it is a partial payment). However, in order to close out a year, all funds for a project must have been spent on an operational, in-use project and all contracts must be fully paid.

(c) Districts that have submitted the required Annual and Final Reports for Years 1 through 6 and have had no ARB audit findings pertaining to fund non-expenditure may close out their programs for these years by having the APCO, CFO, and Carl Moyer Program manager certify in writing that the invoices for these projects have been paid in full and that there are no known instances of fraud in implementing the program for that year. Alternatively, a district may provide a copy of any invoices not already provided to ARB that demonstrate that all projects have been complete and contracted invoice amounts paid in full.

Part II-F: Program Oversight

(Section 22) ARB Audit of Air Districts

(a) State law provides ARB with the oversight responsibility and authority to audit Carl Moyer Programs and related emission reduction incentive programs (HSC §44291 and §39500). ARB audits are designed to ensure that district programs achieve expected emission reductions and are implemented in a manner consistent with program guidelines and State law. Besides identifying program deficiencies, audits are also designed to provide ARB with a mechanism for identifying the strengths of district programs. ARB’s specific audit procedures are described in more detail in the Carl Moyer and School Bus Program Auditing Policies and Procedures Manual.

(b) ***AB923 - Oversight/audit of AB 923 funds is being worked through with CAPCOA***

(c) ARB shall audit a sufficient number of districts each year – commensurate with approximately 10 percent of program funds -- to ensure proper program implementation. The frequency of district audits is as follows:

- (1) Large districts will be audited at least once every 4 years.
- (2) Medium districts will be audited at least once every 6 years.
- (3) Small districts will be audited once every 8 years.

(d) To ensure objectivity and the efficient use of resources, ARB shall use a risk-based approach to select specific districts for audit during a given year and to select specific district projects to audit. Consistent with this approach, districts that demonstrate good performance when audited will likely be audited less frequently in the future than similarly-funded districts with poorer audit results.

- (e) ARB's responsibilities during an audit include the following:
- (1) Audits shall be conducted in a manner that reflects the public responsibility and accountability entrusted to ARB.
 - (2) ARB shall maintain open channels of communication with the district under audit. ARB's audit procedures contain a number of provisions to enable open communications. Such provisions include fully explaining the audit's scope and procedure at the beginning of the process, discussing preferred channels of communication with the district, informing the district of potential issues as they unfold, affording numerous opportunities for district input throughout the audit, thoroughly discussing any findings and recommendations with the district during the exit interview, and allowing the district an opportunity to formally respond to the audit report.
 - (3) To ensure objectivity and predictability, ARB shall base its findings and recommendations on materials such as State law, ARB's Program Guidelines and Advisories, Program Grant Award and Authorizations, e-mail communications between ARB and the district, a district's Policies and Procedures Manual, and a district's local requirements.
 - (4) All audit reports, district responses, and related documents shall be readily available to the public.
 - (5) ARB shall conduct sufficient follow-up activities, including assisting districts and conducting follow-up reviews, to ensure that any identified deficiencies are promptly and effectively rectified.
- (f) Air district responsibilities during an audit include the following:
- (1) Districts shall ensure that program files and other requested information are readily available to audit staff.
 - (2) District management shall, at a minimum, participate in the entrance and exit interviews and shall ensure that district staff are cooperative with audit staff.
 - (3) District staff shall communicate fully with audit staff and with district management throughout the course of an audit.
 - (4) Districts shall make every effort, including requesting assistance from ARB if necessary, to ensure that identified deficiencies are promptly and effectively rectified. Districts shall report on their progress at specified intervals.

(Section 23) “In Good Standing” Designation

(a) A district shall be designated as in good standing if it complies with the following requirements:

- (1) Meets all the Annual Report requirements identified in Section 17 of this chapter, including submittal of an accurate and complete Annual Report in a timely manner, and adequately addressing the requirements of Section 17(e), if applicable.
- (2) Meets all the invoice payment and Final Report requirements identified in Sections 17 through 20, including submittal an accurate and complete Final Report in a timely manner and demonstration of full fund expenditure within two years.
- (3) Fully addresses all Carl Moyer Program audit findings which do not raise significant concerns with a district's program implementation. These districts shall have an opportunity to fully address ARB's audit findings before having their “good standing” status revoked. The expected timeline for addressing an audit finding shall be detailed in ARB's audit report for the district. A district for which an audit finds major and significant issues with its implementation of the Carl Moyer Program may have its “in good standing” status revoked immediately.
- (4) Meets all other requirements of the Carl Moyer Program as identified in statute and these Guidelines.

(b) No district shall be designated as in good standing until ARB has found it meets the requirements of this section. ARB shall make the first determination of whether a district is in good standing or not in good standing after the August 31, 2008 deadline for the Year 8 Final Report and Year 9 Annual Report. Each district's designation shall be reevaluated annually after the August 31 reporting deadline to determine if a district continues to be in good standing.

(c) ARB shall notify a district in writing if the district has been designated as in good standing. A district not designated in good standing shall, at its request, be notified as to the reason for this designation.

(d) A district “in good standing” status can be revoked at any time for failure to meet the requirements of Section 23(b), above. A district on probation as per Section 24 shall not be considered in good standing.

(e) Districts in good standing have additional flexibility to administer the Carl Moyer Program as described in the following sections of this chapter:

- (1) Section 5(e)(5) – Submittal of Status Report
- (2) Section 6(e) – Eligibility for Additional Funding Allocation
- (3) Section 8(c) – Required Actions for Grant Disbursement
- (4) Section 17(c)(4) – Annual Report Contract Submittal
- (5) Section 19(c)(4) – Final Report Invoice Submittal

(Section 24) Program Non-Performance

(a) An air district may be placed on probation due to egregious or widespread non-compliance with the Carl Moyer Program statute or these guidelines. ARB may find egregious or widespread non-compliance as a result of an ARB audit or through another mechanism. Non-compliance with program guidelines or statute include, but are not limited to, the following:

- (1) Failure to expend program funds within two years as required by HSC §44287(k) and tracked cumulatively consistent with Section 20 of this chapter.
- (2) Misuse of Carl Moyer Program funds, including funding of ineligible projects.
- (3) Insufficient or improper program oversight and enforcement, including widespread deficiencies in project contracting, inspections, or audits.
- (4) Insufficient, incomplete, or inaccurate project documentation.
- (5) Failure to submit timely and accurate Annual and Final Reports to ARB.

(b) Prior to placing a district on probation, ARB shall offer a meeting between the ARB Executive Officer and the district APCO to identify the areas of program non-compliance and any steps that could be taken to immediately resolve the issue and keep the district out of probation.

(c) A district on probation shall:

- (1) Provide a mitigation plan, which shall include its committed actions and timeline for addressing all of the program deficiencies. ARB shall evaluate the district's mitigation plan and weigh the proposed actions and timeline against the severity of program non-compliance. ARB shall approve the mitigation plan if it includes adequate and expeditious commitments for addressing the identified problem(s).

- (2) Complete training provided by ARB, focusing on the subject area for which it was placed on probation.
- (3) Attend all quarterly Incentive Program Implementation (IPI) team meetings.

ARB may impose additional requirements, depending upon the scope and/or severity of the district's non-compliance with program requirements.

(d) No later than one year from the date the district was placed on probation, ARB shall evaluate the district to determine whether it has met the requirements of this section and has fully addressed the issue(s) for which it was placed on probation. ARB shall brief the district on the results of their evaluation and allow the district to provide additional input before making a final decision on the district's probationary status. ARB shall then take one of the following actions:

- (1) Remove the district from probation.
- (2) Continue the district probation for a period of up to one additional year.
- (3) Continue the district probation for a period of up to one additional year and adjust the district's annual funding allocation for the probationary period to reflect that amount which the district is able to spend in accordance with program guidelines and statute. ARB shall reallocate a district's unallocated funds pursuant to this Section are to be reallocated to other air districts based upon the formula set forth in HSC §44299.2(a)
- (4) In the event the district remains on probation, ARB may adjust the mitigation plan requirements.

(Section 25) Program Streamlining

(a) A district which has demonstrated continued excellence in program implementation and is in good standing may apply to ARB to have specific elements of these guidelines waived or amended (Streamlining Plan). The district's Streamlining Plan application must include the following three elements.

- (1) Evidence that the district has consistently run an outstanding program, including but not limited to:
 - (A) results of an ARB audit of the district's program;
 - (B) continued submission of timely and accurate Annual and Final Reports, Policies and Procedures Manual, and other documentation;

- (C) continued participation in IPI meetings, work groups, and other program forums;
- (D) adoption of program Best Practices, as identified in these guidelines;

A district which ARB has recently audited and found to run an outstanding program shall receive greater consideration for more program autonomy than a district whose program has not been as thoroughly reviewed.

- (2) A detailed description of the administrative exemptions requested.
- (3) A Streamlining Plan, which details how the district intends to implement the Carl Moyer Program with the requested exemptions. The Streamlining Plan must demonstrate that the proposed changes shall not undermine the effectiveness, transparency, or accountability of the Carl Moyer Program.

(b) ARB shall review a district's Streamlining Plan application within 30 days of its receipt and either approve the application, disapprove the application, or request additional clarification. A district shall not implement the Streamlining Plan until receiving written approval from ARB.

(c) Examples of exemptions a district may request in its Streamlining Plan include:

- (1) authority to approve case-by-case projects that don't exceed a certain maximum funding cap.
- (2) exemption from submitting Annual and/or Final Reports.
- (3) more flexibility to pre- and post-inspect less than 100 percent of projects.
- (4) more flexibility for district auditing of projects.

(d) Continued approval of the Streamlining Plan shall be contingent upon the district meeting the plan's requirements, and continued excellence in overall program implementation. If ARB is considering revoking a district's Streamlining Plan, ARB shall call a meeting to discuss its concerns and if there are immediate steps that can be taken to ensure resolution occurs within a mutually acceptable period of time. If resolution is not possible, ARB shall notify a district in writing that they are revoking the district's Streamlining Plan. ARB's notification shall include an explanation for the plan's revocation.

PART III: AIR DISTRICT-APPLICANT INTERACTIONS

(Section 26) General Carl Moyer Program Criteria

(a) All Carl Moyer Program projects must meet the following minimum Carl Moyer Program project criteria. Participating districts retain the authority to impose additional requirements.

- (1) Emission reductions obtained through Carl Moyer Program projects must not be required by any federal, state or local regulation, memorandum of agreement/understanding with a regulatory agency, settlement agreement, mitigation requirement, or other legal mandate.
- (2) The local air district or ARB Governing Board rule approval date (or the promulgation date of a federal regulation) represents the cutoff date by which a Carl Moyer Program project contract must be fully executed, or that project must achieve emission reductions surplus to the new rule.
- (3) No emission reductions generated by the Carl Moyer Program shall be used as marketable emission reduction credits, or to offset any emission reduction obligation of any person or entity.
- (4) No project funded by the Carl Moyer Program shall be used for credit under any federal or state emission averaging banking and trading program.
- (5) Engines operating under a regulatory compliance extension granted by the ARB, a local district, or the U.S. EPA are not eligible for funding.
- (6) Projects funded by the Carl Moyer Program may not be used to generate a compliance extension or extra credit for determining regulatory compliance.
- (7) Projects must meet a cost-effectiveness of \$16,000 per weighed ton of NO_x, ROG, and PM₁₀ reduced calculated in accordance with the cost-effectiveness methodology in Appendix C. All state funds plus any other funds under a district's budget authority or fiduciary control contributed toward a project must be included in the cost-effectiveness calculation.
- (8) Carl Moyer Program grants can be no greater than a project's incremental cost. The incremental cost is generally expressed as the percent of the total project cost in each source category chapter. The incremental cost shall be reduced by the value of any current financial incentive that reduces the project price, including tax credits or deductions, grants, or other public financial assistance, including but not limited to, Proposition 1B Goods Movement Emission Reduction Bond, Environmental Quality

Incentive Program, or Federal Transportation Authority funds. Port funds contributed to a project are not considered public financial assistance and are not included in the project cost-effectiveness calculation except to the extent that funds are used to meet the program match requirement. **(Run by Legal)**

- (9) Projects must have a minimum project life of three years, except for engines subject to the Stationary Diesel In-Use Agricultural Engine Airborne Toxic Control Measure, which must have a minimum project life of one year.
- (10) The contract term must extend to the end of the project life.
- (11) The new engine/vehicle/equipment must remain in service for the project life.
- (12) Funded projects must have at least 75 percent of their total activity for the project life in California. (Requirement does not apply to marine projects).
- (13) Projects for which activity is based on hours of operation must include a functioning hour meter on the new engine.
- (14) Project engines and retrofits may only use the fuel allowed by the engine certification or retrofit device verification during the project life. Fuel additives are not allowed to be used unless specifically identified as allowable in the engine certification or retrofit device verification.
- (15) Carl Moyer Program projects must meet requirements applicable to that project category found in the applicable source category chapter of these guidelines.
- (16) Potential projects that do not meet all of these criteria may be approved by the ARB on a case-by-case basis if the project is demonstrated to achieve surplus, real, quantifiable and enforceable emission reduction benefits in California for the full project life. Additional information regarding approval of case-by-case projects is found in Section 29 of this chapter.

(Section 27) Minimum Project Application Requirements

- (a) Districts and ARB shall conduct outreach to inform potential project applicants of the availability of grants and the requirements and objectives of the Carl Moyer Program. (HSC § 44290) ^{See Best Practices #5 through #8}
- (b) Project applications must include all the source category-specific information needed to populate and calculate project cost-effectiveness in CARL. Example project

application data is available on ARB's website at www.arb.ca.gov/msprog/moyer/moyer.htm.

(c) Project applications must include documentation for the previous two years of existing engine usage (miles traveled, hours operated, or fuel consumed per year) for repower or retrofit projects and projected engine usage for new purchase projects. The usage amount included in the project application must be used to evaluate project cost-effectiveness and maximum grant award. Additional engine usage criteria may be found in specific source category chapters.

(d) Applications must include a signature section for third parties. A third party may complete an application or part of an application on an owner's behalf if the vehicle, engine, or equipment owner signs the application. The third party signature section must include signature and date lines, and blanks for the third party to indicate the amount and source of payment, if any.

(e) Project applications must include a disclosure statement that the owner or the owner's designee must sign.

- (1) The disclosure statement shall specify whether the applicant has submitted an application for incentive funds to any other entity or program for the same project (for example, repowering of the same project engine). If so, the applicant must disclose to whom the other application was submitted, and whether funds have been awarded or may be awarded. If funds have been awarded or may be awarded, the funding amount must be disclosed.
- (2) An applicant may to re-apply for project funding if a previous application for the same project has been rejected by the district and is no longer being considered for funding.
- (3) An applicant shall disclose the value of any current financial incentive that directly reduces the project cost, including tax credits or deductions, grants, or other public financial assistance, for the same engine. The incremental cost of the project shall be reduced by the amount of the current financial incentive.
- (4) An applicant who is found to have submitted multiple applications for the same or who has not disclosed any current financial incentive engine without the disclosure required by Section 27(e)(1), above, shall at a minimum, be disqualified from funding for that engine from all sources within the control of a district or ARB and may also be banned from submitting future applications for any Carl Moyer Program funding. ARB and the districts may also seek civil or criminal penalties for such non-disclosure.

- (5) The applicant shall also certify in the disclosure statement that he or she has reviewed the application and that the application information is accurate and correct.

(Section 28) Application Evaluation and Project Selection

(a) In accordance with HSC section 44288(a), districts must review all applications for completeness upon receipt and notify the applicants in writing if their application is not complete within five working days of receipt. The notification must clearly state what is required to make the application complete. All notifications of an incomplete application must be copied, with the original handed or sent to the owner, and the copy must be placed in the applicant file along with a copy of the incomplete application. This written notification must be accomplished using one of the options below:

- (1) A letter, sent through the U.S. mail.
- (2) An email message.
- (3) A boiler plate form with check-offs.
- (4) A phone call to the applicant, followed by a dated note or other documentation of the call to the project file.

(b) Air districts are responsible for determining that project applications are credible, made in good faith, and in compliance with the Carl Moyer Program and its objectives based upon the documentation submitted by the applicant.

(c) All complete applications must be reviewed by the district for eligibility. This process must include all of the following:

- (1) Entering or uploading the data from the application into the ARB database (CARL) or the district equivalent to ensure that it meets the emission reductions and cost-effectiveness criteria of the Carl Moyer Program. Districts not using CARL are responsible for ensuring the accuracy of their database calculations of cost-effectiveness and eligible funding amounts. Applications to fund ineligible source categories, or which are otherwise clearly ineligible for Carl Moyer Program funding, do not need to have their data entered or uploaded into the ARB database or district equivalent.
- (2) Checking to ensure the project meets all of the minimum requirements outlined in the chapter for the appropriate source category, including:
 - (A) Documentation of historical vehicle, equipment, or engine usage.
 - (B) Documentation of project costs.
 - (C) Engine or retrofit device Executive Orders, if applicable.

- (D) Proof of a vehicle compliance check, as needed, for on-road projects.
- (E) Other documentation identified in the relevant source category chapter.

(d) Districts must have a system for tracking applications. At a minimum, the tracking system shall include the minimum information needed to readily identify the project applicant, project type, and project eligibility, and calculate project cost-effectiveness and maximum grant award in CARL.

(e) The district shall maintain a copy of each application and a file for each selected project. A district may use a solely electronic file system only after the district satisfactorily demonstrates to ARB that all documentation is maintained and can be easily accessed on demand.

(f) Districts must keep project applications until three years after the end of the project life for projects selected for funding and until three years after the project application deadline for projects not selected for funding.

(g) Districts have the authority and responsibility for selecting Carl Moyer Program eligible projects in areas within their jurisdiction. Projects approved for funding must meet all applicable requirements of these guidelines. Once a district has checked the eligibility of projects, the district must follow its Policies and Procedures Manual in selecting projects to fund. See Best Practices #17, #18, #19, and #24

(h) The record of each project's rating and ranking, receipt date, or other project selection criteria must be maintained with the application.

(i) Districts must ensure that the emission reductions provided by selected projects are surplus to compliance deadlines of adopted regulations and other legal requirements.

(j) The following requirements apply to those districts that do not currently operate and maintain their own database:

- (1) Information for projects selected for funding shall be entered into the CARL to ensure the project meets the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program.
- (2) No project shall be funded unless the CARL indicates the emission reduction requirements and cost-effectiveness criteria of the Carl Moyer Program have been met.
- (3) If the CARL indicates the project does not meet either the emission reduction requirements or the cost-effectiveness criteria of the Carl Moyer Program, and the district representative thinks the project

should actually qualify, the district representative may contact his or her ARB liaison to further evaluate project eligibility.

- (k) A file shall be created for all projects selected for funding. ^{See Best Practice #11}
- (l) Districts must promptly notify selected grantees in writing or by phone that they have been selected for funding. Documentation of grantee notification must be included in the project file. A district's methodology for notifying grantees of their award must be included in its Policies and Procedures Manual.
- (m) Districts with a population greater than one million inhabitants must select from their applicant pool in a way that ensures that 50 percent or more of their Carl Moyer Program funds (including the smog check fee, and adjustment to the tire fee) are expended on projects that are located and/or operate in environmental justice/high risk communities. (HSC § 43023.5) ^{See Best Practices #12 through #16}
- (n) ARB shall include a solicitation packet on its website for multidistrict projects solicited and selected by ARB pursuant to HSC § 44286. The multidistrict project solicitation packet shall include the application requirements and application due date, project eligibility criteria, and project selection criteria.

(Section 29) Case-by-Case Approval

- (a) An air district may request ARB approval of a project or other Carl Moyer Program element that varies from the requirements of these Guidelines on a case-by-case basis. ARB may approve such a project or other program element if this approval would not adversely impact achievement of real, surplus, quantifiable, enforceable, and cost-effective emission reductions, would not significantly reduce program transparency, and is not prohibited by statute.
- (b) Case-by-case approvals must be made by ARB Carl Moyer Program staff in writing (such as in an e-mail or letter).
- (c) An air district receiving case-by-case approval for a project must keep the written approval from ARB in the project file. Written case-by-case approval for other program elements must be kept by an air district and be readily available for ARB audit staff.
- (d) Approval for case-by-case projects must be made prior to contract execution.

(Section 30) Minimum Contract Requirements

- (a) General Requirements. Districts participating in the Carl Moyer Program must execute contracts with applicants who shall receive funds under the Carl Moyer

Program. All Carl Moyer Program project contracts must include the elements described in this section. See Best Practices #9, #10, #21, and #28

(b) Party Names and Date. All contracts shall state the name of the district and the owner as parties to the contract. Contracts shall include signature blocks with an area for the dates the contract is signed. See Best Practice #25, #26, and #27

(c) Notices. All contracts shall include contact information for both parties to the contract, including how to send and receive notices.

(d) Disclosure of Funds. The owner or owner's designee must sign a disclosure statement.

- (1) The disclosure statement shall certify that once the owner or designee signs the project contract, the owner or designee shall not submit another application or sign another contract for the same specific project (such as repowering of the project engine) with any other source of funds, including but not limited to, other districts or ARB (for a multi-district solicitation). An owner or designee may receive funding from multiple air districts or grant programs if these entities are coordinating to jointly fund the project.
- (2) The disclosure statement shall indicate whether the owner or designee has received prior incentive funding for the project vehicle, engine, or equipment, as well as the funding source, amount, and contract term associated with the previous incentive grant.
- (3) Any owner, designee, or other third party who is found to have submitted multiple applications or signed multiple contracts for the same specific project shall, at a minimum, be disqualified from funding for that project from all sources and may also be banned from submitting future applications to any and all Carl Moyer Program solicitations. ARB and the districts may also levee fines and/or seek criminal charges for such conduct.

(e) Contract Term. All contracts shall specify the term of the contract. The contract term shall include two time frames – “project completion” and “project implementation” – to ensure that the district and ARB can fully enforce the contract during the life of the Carl Moyer Program-funded project. See Best Practice #22 and #23

- (1) Project Completion. Project completion is the time frame starting with the date of execution of the contract to the date the project post-inspection confirms that the project has become operational. This includes the time period when an engine or vehicle is ordered, delivered and installed. The contract shall include a specified time frame in which project completion shall occur, so that the funds are expended within the two-year required timeframe.

- (2) Project Implementation. The project implementation time frame is the second part of the contract term, and must equal the project life used in the project cost-effectiveness calculation. The contract shall specify that the owner is required to operate and maintain their Carl Moyer Program-funded project according to the terms of the contract for the full project implementation period.

(f) Project Specifications. All contracts shall include detailed information on the baseline and new vehicles, equipment and/or engines that were used in the project cost-effectiveness calculation. This requirement may be met by including the project application as an attachment to the contract. A program-eligible new vehicle, piece of equipment and/or engine which is verified or certified to achieve greater reductions than the original project new vehicle, piece of equipment and/or engine may be substituted with prior approval of the district. All contracts shall specify the amount the engine is to operate within California (or the district) each year based on hours, miles, or fuel usage. Contracts must also contain a statement that the project complies with the Carl Moyer Program Guidelines and criteria and shall meet all program requirements for the full contract term.

(g) Maintenance. All contracts shall require the owner to maintain the vehicle, equipment and/or engine according to the manufacturer's specifications for the life of the project, and shall include a prohibition on engine tampering. The owner shall maintain a working hour-meter for projects that use hours of operation as a means of calculating emissions reductions and cost-effectiveness. If the hour-meter fails, the owner shall immediately notify the district, and remains responsible for validating any hours not recorded by the hour meter. The owner must either repair or replace the non-operating meter or provide other documentation of equipment operating hours acceptable to the district.

(h) Payment. Before a Carl Moyer Program payment may be made to a project participant, the project contract must be executed, an eligible invoice must be received by the district, and the project post-inspection must be successfully completed. The equipment must be operating before the final payment is issued. All contracts must include the following payment terms:

- (1) Maximum Contract Amount. The maximum contract amount must not exceed the maximum funding level corresponding to the \$16,000 per weighted ton program cost effectiveness limit, nor may the maximum contract amount exceed the project incremental cost. The maximum contract amount must also comply with any funding caps and other criteria for the specific project category as identified in these guidelines.
- (2) Itemized Invoices. Payment terms must require itemized invoices from the engine supplier for repowers or paid invoices from the vehicle owner for new vehicles and satisfactory post-inspection by the district prior to

payment of the owner's invoice. An invoice payment for a specific vehicle, engine, or piece of equipment may not exceed the amount indicated on the project contract for that vehicle, engine, or piece of equipment. Invoices must meet the minimum requirements of Section 33 to be eligible for Carl Moyer Program funding.

(i) Reporting. All contracts must include a provision for owners to submit annual reports commencing no later than one year after project post-inspection and continuing annually thereafter for the project implementation phase of the contract. ^{See Best Practice #31}
The district shall include the dates the Annual report is due.

- (1) If the district monitoring phase of the contract term exceeds five years, the owner's reporting responsibility may be reduced to once every other year after the initial five years of reporting.
- (2) If the project is a zero-emission technology, reporting may be reduced to biennially for the first six years of the contract. No Annual reports are required thereafter.
- (3) During the project implementation term, the district is responsible for monitoring the project to assure the project is operational and the project emissions reductions are realized.
- (4) The contract shall inform the owner that noncompliance with the reporting requirements shall require on-site monitoring or inspection(s).

(j) On-Site Inspections and Audits. All contracts shall include language that allows the district, ARB or their designee to conduct a fiscal audit of the project and/or to inspect the project engine, vehicle, or equipment and records relating to such during the contract term. Contracts must require the owner to maintain and retain the project records for at least two years after contract expiration or three years after final project payment, whichever is later.

(k) Repercussions for Nonperformance. Districts shall include repercussions for non-compliance with the obligations of the contract.

- (1) The contract shall specify that by executing the contract, the owner understands and agrees to operate the vehicle, equipment, and/or engine according to the terms of the contract and to cooperate with the district and ARB in implementation, monitoring, enforcement, and other efforts to assure the emissions benefits are real, quantifiable, surplus, and enforceable.
- (2) The contract must describe the repercussions to the owner for noncompliance with contract requirements, including but not limited to cancelling the contract and recapturing of project funds.

- (3) The contract must inform the owner that ARB and the district have the authority to fine the owner or seek other remedies available under the law for noncompliance with Carl Moyer Program requirements and nonperformance with the contract. Districts may consider unforeseen circumstances beyond the owners' control in determining repercussions for nonperformance.
- (4) The contract must state that the ARB, as an intended third party beneficiary, reserves the right to enforce the terms of the contract at any time during the contract term to ensure emission reductions are obtained, including the period between 5 years and the end of the project life for those projects with project lives that exceed 5 years.

(Section 31) Project Pre-Inspections

- (a) Once an application is deemed eligible, a pre-inspection must be completed by the district. ^{See Best Practice #29} Districts may choose to allow public agencies (e.g. public works departments, transit organizations, and school districts) to provide documentation of the engine and its use in lieu of a pre-inspection.
- (b) The pre-inspection shall, at a minimum, include the following:
 - (1) Collect the serial number of the baseline engine and any additional information necessary to assist in the verification of the baseline engine application information. Engines without a visible and legible serial number must be uniquely identified by having the engine block stamped with a Carl Moyer Program number (or alternative permanent marking) when the engine is in the project vehicle or equipment.
 - (2) All baseline vehicle, equipment, or engine information directly related to the application emission reduction calculations (engine Tier, vehicle model year, etc...) must be verified to be equivalent to that used to evaluate project cost-effectiveness.
 - (3) Verify the project usage (hours or miles) meter reading, if used in the project cost-effectiveness calculation, and verify that stated project usage is reasonable given the usage meter reading.
 - (4) Verify the engine is operational (with a start-up) and that the engine is working as described in the application (document function and use).
 - (5) At least one photo shall be taken of each engine for the project file. The photo must include the serial number of the engine (if legible) and/or any other identifying markings. Districts must include, in their Policies and

Procedures, a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.

(c) A pre-inspection form must be used to document the pre-inspection. The required elements the district must complete on a project pre-inspection form include:

- (1) Owner's name, address and telephone number.
- (2) Location of the engine.
- (3) Verification of the project baseline engine, vehicle, and/or equipment information as described in the application.
- (4) Pre-inspection of a verified retrofit device must include the name of the manufacturer, diesel emission control strategy family name, product serial number, and, if available, month and year of manufacture (usually indicated as MM-YY). The month and year of manufacture may not be listed on the retrofit label if this information can be readily obtained from the retrofit manufacturer by reference to the serial number.
- (5) Space for the inspector to record whether the engine is in running condition, make comments, and attach pictures.

(d) A hard copy of the completed pre-inspection form shall be maintained in the district's project file.

(e) A districts may enter into a Master Contract with a vehicle or equipment dealer to pre-inspect on-road retrofit projects. All other projects must be pre-inspected personally by district staff. A district which enters into such a contract must ensure the following:

- (1) The vehicle or equipment dealer must complete and sign the appropriate inspection forms and provide photographic evidence that the equipment is correctly identified on the form. Photographic evidence must include the engine tag and emissions information.
- (2) The district must define its protocol for ensuring the correct verified project retrofit has been properly installed on the eligible project vehicle in its Policies and Procedures Manual.
- (3) The district must define clear and substantial consequences for fraud by the dealer in the Master Contract.

- (4) The district must randomly inspect at least ten percent of vehicles/equipment that have been pre-inspected by the dealer pursuant to the Master Agreement. The dealer shall have no more than 48 hours notice of such inspections.
- (f) The project pre-inspection must be completed prior to a project contract execution. A district may apply to ARB to conduct pre-inspections after contract execution on a case-by-case basis. Case-by-case approval of such a procedure shall depend upon the following:
 - (1) The district describes the program benefits it would achieve by conducting pre-inspections after contract signature.
 - (2) Language is included in the project contract to indicate contract terms may be adjusted or the contract may be deemed void based upon information collected during the pre-inspection. The district must also include a process for informing the project participant of such.
 - (3) The district's Policies and Procedures Manual clearly specifies the process for conducting pre-inspections after contract execution and any additional procedures enacted to ensure the project achieves real, surplus, enforceable, and quantifiable emission reductions. Work on the project engine, vehicle, or equipment may not commence until after the pre-inspection.

(Section 32) Post-Inspection

- (a) Post-inspections shall be completed on all projects funded under the Carl Moyer Program. See Best Practice #29
 - (1) The district shall conduct a post-inspection after it receives an invoice from the owner for a project or otherwise receives notice the project is complete. If the post-inspection occurs before the district receives the project invoice, when the invoice is received it must be reviewed for consistency with the new engine, vehicle, or equipment information from the post-inspection form.
 - (2) For public fleets, such as transit organizations, where more than 20 of the vehicles in the fleet are included in the project, the district may choose to inspect a statistically significant random sample of the vehicles included in the project.
 - (3) The inspector shall record the project information on the inspection form and verify it with the information listed in the contract. All new vehicle,

equipment, or engine information directly related to the application emission reduction calculations (engine Tier, vehicle model year, retrofit device certification level, etc...) must be verified to be equivalent to that used to evaluate project cost-effectiveness.

- (4) The engine must be operational in the equipment or vehicle as stated in the contract. The inspector must visually witness all engines start up and mobile projects run.
- (5) The vehicle, equipment, or engine information must be documented with photos. The photo must include the serial number of the engine (if legible) and/or any other identifying markings. Districts must include, in their Policies and Procedures, a method for cataloging, referencing, storing and easily retrieving project-specific photos. These methods may include electronic filing for digital photos, the inclusion of project-specific information (applicant name, date, project number, etc.) within each photograph or inscribing each photo with pertinent project-specific information. ARB approval of the district's Policies and Procedures Manual shall indicate approval of the photo documentation methodology.

(b) A post-inspection form shall be used to document the post-inspection. The completed form shall be maintained in the project file. The required elements for a post inspection form include all of the following:

- (1) Owner's name, address and telephone.
- (2) Location of the engine.
- (3) Baseline engine information (make, model, model year, horsepower, and serial number) as written in the application and/or contract.
- (4) Space for the inspector to record whether the engine was scrapped or destroyed.
- (5) New engine information (make, model, model year, horsepower, and serial number).
- (6) Retrofit post-inspection information identified in Section 31(c)(4) of this chapter.
- (7) Space for the inspector to record whether the engine is in running condition and make comments.

(c) The existing (old) engine must be destroyed and rendered useless. ^{See Best Practice #30}

- (1) The destruction of the engine must be documented by district staff verifying the engine serial number matches that on the project contract either in-person or through photographic or video evidence.
- (2) District staff must verify that engines without a visible and legible serial number are uniquely identified by the correct district stamp or other permanent marking prior to engine destruction, as per Section 31(b)(1) of this chapter.
- (3) Methodology for verifying engine destruction must be identified in the district's Policies and Procedures Manual. ARB approval of the Policies and Procedures Manual shall indicate ARB approval of the district's methodology for verifying engine destruction.
- (4) Destruction methods and requirements specific to the on-road fleet modernization category, off-road equipment replacement, and the light duty vehicle category are described in those chapters.

(Section 33) Project Invoice and Payment

(a) An itemized invoice for a project must be received by the district before payment may be made. A project invoice must include enough detail to ensure only eligible project costs are being reimbursed, yet clear and concise enough to be understandable. The district shall review the itemized invoice and only pay for eligible expenses.

See Best Practice #32

(b) Charges for equipment and parts on engine repower projects are only eligible for funding if they are required to ensure the effective installation and functioning of the new engine, but are not part of typical vehicle or equipment maintenance or repair. Ineligible repower costs include tires, axles, paint, brakes, and mufflers. Ineligible marine vessel repower costs are described in the marine vessel chapter of these guidelines (chapter sections shall be referenced when final).

(c) In order to be eligible for Carl Moyer Program funding, labor expenses must be included in the project invoice and detail the number of hours charged and the hourly wage.

(d) Taxes, installation costs for eligible hardware, and transport costs for eligible hardware are eligible for Carl Moyer Program funding at the district's discretion.

(e) A potential grantee may not order or make a down payment on a new engine, piece of equipment, or vehicle prior to district approval of the project, either via contract execution or approval by the governing board or board designee. Dealers ordering engines, equipment, or vehicles prior to district approval of grant applications assume all financial risk, and are in no way ensured program funds. A grantee may not receive

engines, equipment, or vehicles, nor may work begin on a repower or retrofit project, until the project contract is fully executed.

(f) Payment on a project may only be made after receipt of a project invoice and the district post-inspection indicates the project is in place and operational. An electric agricultural irrigation pump is considered operational for the purposes of this definition once it has been delivered to the project participant and has been connected to the electricity grid.

- (1) Partial payments may be made only if the payment process and requirements have been reviewed and approved by the district and are described in the contract. Progress payments shall only be made after the owner provides the district with sufficient evidence of completing predetermined milestones, such as engine delivery. The district must maintain a clear record of progress payments in the file and in the administration/fiscal unit of the district. Progress payments include final payments that are withheld until all reporting requirements are met, also known as withhold payments.
- (2) Payments typically shall be made directly to the project applicants. However, payments may be made directly to the dealer or distributor only if such payment arrangements are specified in the contract. Partial payments may be made only if the payment process and requirements have been reviewed and approved by the district.
- (3) Additional project invoicing requirements for the on-road fleet modernization category are included in that chapter.

(g) For all on-road projects, if a compliance check was not previously completed, the district shall verify with its ARB district liaison that there are no outstanding violations prior to payment.

(h) For projects where the participant must comply with an ARB regulation early to receive funding, invoices may not be paid until the project participant has provided documentation that early compliance has been achieved. A project participant may demonstrate early compliance via a detailed letter signed by the vehicle or equipment owner or legal representative or, if the regulation requires ARB to certify compliance, through ARB certification. Districts are not to be held liable if a grantee falsifies this documentation.

(i) Invoices received after the project post-inspection has been complete must be evaluated for consistency with the project post-inspection form, as per Section 32(a) of this chapter.

(j) The district shall maintain copies of all invoices and documentation of payment in the project file.

(Section 34) Grantee Annual Reporting

- (a) Districts shall require all project participants to submit annual reports commencing no later than one year after the project post-inspection and annually thereafter for the term of the contract, with the following exceptions: See Best Practice #33
- (1) If the district's monitoring phase of the contract term exceeds five years, the owner's reporting responsibility may be reduced to once every other year after an initial five years of satisfactory reporting.
 - (2) If the project involves a zero-emission technology, reporting may be reduced to biennially for the first six years and no annual reports are required thereafter.
- (b) The annual report shall be in a format prescribed by the district and shall contain all of the following information:
- (1) Owner's name, address, and telephone number.
 - (2) Location of the engine and/or equipment.
 - (3) Engine, vehicle, and/or equipment information (make, model, model year, horsepower, and serial number).
 - (4) Condition of the engine, vehicle, and/or equipment, including current working condition and any major maintenance of the engine that significantly affected the annual usage of the engine.
 - (5) Any conditions (e.g. weather, permits) that significantly affected the annual usage of the engine and/or equipment.
 - (6) Readings of the usage meter (hour meter, odometer, EMU, etc.).
- (c) The districts shall review the annual report for completeness, accuracy, and usage. A hard copy of the annual report, initialed and dated by the reviewing staff, shall be maintained in the project file. A district choosing an alternative method to indicate its review and approval of annual reports must identify such alternative method in its Policies and Procedures Manual.
- (d) If the project's usage does not average out to within 70 percent of the annual usage specified in the contract over at least a 3 year period (i.e. no more than 30 percent below the stated usage), the district shall take appropriate action to ensure the contracted emissions reductions are realized. Activity for agricultural irrigation pump projects with a one-year project life must be within 70 percent of that stated in the

project contract. Options for addressing actual usage which is more than 30 percent below that stated in the contract include, but are not limited to:

- (1) Extending of the project contract for additional years (if this doesn't overlap with an applicable rule implementation requirement).
 - (2) Returning of project funds in proportion to the loss in emission reductions.
 - (3) Transfer ownership of the vehicle or equipment to an entity committed to comply with the contract terms.
- (e) If an annual report is incomplete, inaccurate or not received from an owner on schedule the district shall make a reasonable attempt to obtain the complete and accurate report from the owner. If the district is unable to obtain the report, all of the engines in that project shall be audited by the district, as per Section 35 of this chapter.
- (f) Districts shall keep a list of project participants with any reports that are more than six months late. Project participants with reports that are more than six months late shall not be granted any additional Carl Moyer Program funds until all reports are satisfactorily submitted.

(Section 35) District Audit of Projects

- (a) Districts shall conduct audits of projects that have been funded for at least one year (based upon pre-inspection date) and are also within two years of contract expiration, as follows:
- (1) at least five percent (or a statistically significant number, whichever is less) of projects, and
 - (2) all of the projects whose owners fail to submit their most recent required project annual report as per Section 33 of this chapter within six months of their reporting deadline.
- (b) Districts shall conduct audits for the following projects at the end of their contract term, as follows:
- (1) at least five percent (or a statistically significant number, whichever is less) of projects, and
 - (2) all of the projects whose owners fail to submit their final project annual report as per Section 34 of this chapter, and

- (3) all of the projects that were found to be more than 30 percent below the contracted activity level during any audit conducted as per Section 35(a), above.
- (c) Audits shall be completed by district staff and shall, at a minimum, include verifying that the engines paid for are still operational in the same equipment and meet the mileage, fuel usage, or hours of operation indicated on the executed contract. This shall be completed by checking the serial number of the engine; witnessing the engine operate; and checking the odometer, hour meter/usage device, fuel receipts, or EMU.
- (d) If project activity is more than 30 percent below an annual average of the level of use committed to in the contract, the district shall take appropriate action to ensure the emissions benefits are realized and captured during the term of the contract. In addition, the district shall audit all of the other engines owned by the same participant and included in the same Carl Moyer Program funded project.

(Section 36) Nonperforming Projects

- (a) A district shall work with delinquent project grantees to ensure Carl Moyer Program project requirements are met and emission reductions are achieved. See Best Practice #34 and #35
- (b) A district shall make all reasonable efforts to recoup Carl Moyer Program funds from delinquent applicants, as needed to ensure funded emission reductions are achieved. A district's efforts to recoup funds may be guided by circumstances such as:
 - (1) the existence of fraud or intentional misuse of funds, or
 - (2) the amount of Carl Moyer program funding involved, or
 - (3) the ability of the applicant to repay the funds.
- (c) A district shall describe its procedures for dealing with delinquent grantees in its Policies and Procedures Manual.